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**To:** Microsoft ATR  
**Date:** 1/24/02 10:02pm  
**Subject:** Microsoft Settlement

I would like to express my disappointment with the proposed settlement.

Let me preface my comments with the following:

- A. I am not sure I am entirely in favor of our current antitrust legislation. I wish to make this predisposition clear, even if it is irrelevant; the laws have been passed, there is clear legal precedent, and until the laws are changed, we must enforce them.
- B. I am a computer science professional with over fifteen years of experience in computer science and software development.
- C. I have no legal training.
- D. I am a US citizen.

Our laws are clear. There is legal precedent. The court has ruled against Microsoft in the Finding of Fact. All that remains is a settlement.

Clearly any satisfactory settlement must:

1. Take measures to correct for the illegal anti-competitive practices found in the Finding of Fact.
2. In the absence of (1), and only in the absence of (1), punitive steps are appropriate to the extent that no affective corrective measures can be found.
3. Take steps to provide confidence that Microsoft will be less apt to continue with the same or substantially similar practices in the near future.

The proposed settlement fails on all counts. I see no corrective measures whatsoever. I believe the punitive measures to be inconsequential. And, while preventive measures are clearly the focus of the settlement, I believe the settlement is wholly inadequate in even this one area of focus. The proposed oversight mechanism seems insufficient. More importantly, given earlier actions by Microsoft in the face of legal restrictions (detailed in the Finding of Fact), the proposed enforcement mechanism seems absurd.

I believe that (1) is the most important. Note that in the absence of both (1) and (2), there is absolutely no disincentive for Microsoft and other companies with monopoly power to exploit that power in unlawful ways. If it is left to the judicial branch of the Federal government to call a halt to unlawful practice after the fact, without any punishment or corrective action for those unlawful practices, why would any company seeking to maximize profit stop anywhere short of the point where they are forced to halt practices that (unlawfully) exploit that monopoly? There is no incentive for companies to police themselves.

As a computer science professional, I was very aware of the pains that IBM took 2-3 decades ago to avoid the appearance of overstepping the bounds of the law. Clearly IBM acted out of respect for that law and the anticipated consequences of overstepping the law. Microsoft has shown no such respect or anticipation, and I do not see anything in the settlement that will change that. On the contrary, I suspect that this settle will only worsen the situation.

I have tried to keep my comments here general, without getting into specifics. Partly, this is because I suspect that this email will merely be tallied and that any specific comments will not be absorbed in any rational way, but mostly this is because I find the settlement to be so terribly unsatisfactory that an enumeration of all unsatisfactory points and the reasons for the dissatisfaction would be overly lengthy for this forum (I suspect).

Suffice it to say, as a computer science professional with more than a passing knowledge of the computer industry, software engineering, software development, and Microsoft products, I believe that Microsoft was clearly in violation of the law as read literally and as interpreted by the courts, and that the proposed settlement does very little to address this and if permitted to take affect would signal disregard for the law by the Federal judiciary. I believe that laws should be changed, not disregarded!

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Will

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